

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6981**

**BILL NUMBER:** SB 354

**NOTE PREPARED:** Jan 4, 2004

**BILL AMENDED:**

**SUBJECT:** Juvenile Law Issues.

**FIRST AUTHOR:** Sen. Long

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
☒ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It provides that certain juvenile acts are considered status offenses and not delinquent acts.
- B. It prohibits a child who is alleged to have committed a status offense from being detained in certain types of facilities.
- C. It prohibits sustained sight or sound contact between juveniles and adults in juvenile detention facilities that are located on the same grounds or in the same building as an adult jail or a lockup.
- D. It requires a juvenile court to conduct a hearing regarding the secure detention of a repeat status offender during the pendency of a violation hearing.
- E. It requires secure facilities to submit data regarding detention of children to the Indiana Criminal Justice Institute, and it requires secure facilities and nonsecure facilities to submit to annual site visits.
- F. It repeals a statute concerning the modification of juvenile court orders upon a child's truancy violation.
- G. It allows a person who is: (1) waived from juvenile court; or (2) excluded from the juvenile court's jurisdiction; to be held in a juvenile detention facility in certain circumstances.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** *Definition of Status Offender and Delinquent Acts:* Status offenses juvenile offenses that would not be crimes if they were committed by adults. These offenses include the following:

- Runaways - leaving home without reasonable cause and without permission of the parent, guardian,

- or custodian.
- Truants - violating the school compulsory attendance laws.
- Incorrigibles - habitually disobeying the reasonable and lawful commands of the child's parent, guardian, or custodian .
- Curfew violators.
- Violating the statute concerning alcohol and minors.

Delinquent acts would be criminal offenses if they were committed by adults.

*Reporting Data Regarding Detention of Children to the Indiana Criminal Justice Institute (CJI):* Under current law, the staff at juvenile facilities can refuse to submit data or allow site visits by the staff at the Criminal Justice Institute or by inspectors contracted by CJI. This bill would establish that these site visits and data submissions are no longer done on a voluntary basis. CJI currently contracts with the Indiana Juvenile Justice Task Force to conduct site visits.

*Waived or Excluded Juveniles:* Juveniles may be waived or excluded from juvenile court depending on their age at the time of the incident, the type of offense they were either alleged or convicted of performing, and whether they have been convicted of a previous criminal offense or a delinquent act. The number of juveniles who have been committed to the Department of Correction (DOC) are provided in the following table.

Fiscal Year	<u>2001</u>	<u>2002</u>	<u>2003</u>
Total Commitments	145	91	77

As of November 1, 2003, 13 females and 348 males were housed in DOC adult facilities who on their original intake date were under age 18. In addition, on that date 38 males and 4 females in DOC adult facilities were younger than 18 years of age.

This bill would permit offenders who are younger than 18 and who are waived from juvenile court to be placed in a juvenile detention facility if the sentencing court receives written approval of the judge of the juvenile court. Depending on the number of juvenile offenders, placing a juvenile offender in a detention facility could transfer some costs to the counties from the Department of Correction. The average expenditure to house an adult offender in DOC facilities was \$26,825 in FY 2002. Currently, there are 24 juvenile detention facilities in 22 counties in Indiana.

**Explanation of State Revenues:** *Federal Monies:* Indiana receives an estimated \$1.4 M from federal sources that are used to fund approximately 40 delinquency prevention projects across the state. About 20%, or \$280,000, would be in jeopardy if Indiana's state statute does not comply with current federal law concerning housing juvenile delinquents and status offenders. In order for Indiana to remain compliant with the federal law concerning juvenile delinquents and status offenders, the following changes need to be made to state law:

- Eliminating sustained sight and sound contact between adult offenders and juvenile delinquents.
- Requiring secure facilities to submit data regarding detention of children and allowing annual site visits to the Indiana Criminal Justice Institute.
- Defining secure facilities as having locked doors, fences, or other primary construction features to restrict movement and departure.
- Defining shelter care facilities as having no locked buildings or fences, but allowing facility staff to restrict the movement and departure of a child.

- Restricting runaways from being held in a juvenile detention facility for more than 24 hours and prohibiting all other status offenders from being held in either a juvenile detention facility or a secure facility.
- Prohibiting an alleged juvenile delinquent from being held in a lockup or adult jail prior to trial for no longer than six hours.
- Requiring additional hearings and reports by the juvenile court prior to allowing a repeat status offender to be placed in a secure facility.

**Explanation of Local Expenditures: Placement of Repeat Status Offenders:** Under current law (IC 31-37-19-1), juvenile courts have the following options for juveniles who have been determined to be a status offender:

- Supervision by either the probation department or the county Office of Family and Children.
- Mandatory outpatient treatment or family services.
- Placement in another home or shelter care facility or wardship to a person or shelter care facility.
- Partial or complete emancipation of the child, or order a person who is a party to refrain from direct or indirect contact with the child.

For repeat offenders, the potential options vary depending on the type of status offense. As proposed, the juvenile court would allow greater use of secure facilities for repeat status offenders. The following table summarizes the current and proposed sentencing options for juvenile court judges for repeat status offenders.

<b>Out-of-Home and Other Placement Options for Status Offenders</b>		
<b><u>Status Offense</u></b>	<b><u>Current Law</u></b>	<b><u>Proposed</u></b>
<b>Runaways</b>	<p><b>First Offense:</b> Probation, in-home supervision, shelter care facility, or other out-of-home placement.</p> <p><b>Subsequent Runaway:</b> Dept. Of Correction or secure facility in or out of state.</p>	<p><b>First Offense:</b> Probation, in-home supervision, shelter care facility, or other out-of-home placement.</p> <p><b>Subsequent Runaway:</b> Secure facility in or out of state; or if already in out-of-home placement, <u>juvenile detention facility</u> or Dept. Of Correction.</p>
<b>Truants</b>	<p><b>First Offense:</b> Probation, in-home supervision, shelter care facility, or other out-of-home placement.</p> <p><b>Subsequent Truancy:</b> Secure facility in or out of state, or Dept. Of Correction.</p>	<p><b>First Offense:</b> Probation, in-home supervision, shelter care facility, or other out-of-home placement.</p> <p><b>Subsequent Truancy:</b> Secure facility in or out of state, or if already in out-of-home placement, <u>juvenile detention facility</u> or Dept. Of Correction.</p>
<b>Other Status Offenders: Incurrigibles, Alcohol, &amp; Curfew Violators</b>	<p><b>First Offense:</b> Probation, in-home supervision, shelter care facility, or other nonsecure out-of-home placement.</p> <p><b>Subsequent:</b> Nonsecure out-of-home placement.</p>	<p><b>First Offense:</b> Probation, in-home supervision, shelter care facility, or other nonsecure out-of-home placement.</p> <p><b>Subsequent:</b> <u>Secure facility in or out of state</u> with guardian ad litem interview and report to court in 48 hours</p>

**Potential Impact to Counties:** How this bill might affect the placement of juvenile status offenders will

depend on the needs of the individual child and the current programs available for these juveniles. Placement decisions by the courts could affect county expenditures in two different ways:

(1) *Assigning more status offenders to secure facilities could increase costs.* Costs to counties may increase if more status offenders who are incorrigible or if curfew or alcohol violators are assigned to secure facilities. Private secure facilities are generally more expensive than nonsecure facilities.

(2) *Placing truants or runaways in juvenile detention facilities will have uncertain overall effects on county expenditures.* The per diem costs of juvenile detention facilities are more than the per diem costs of DOC facilities. However, the length of stay for a juvenile in a county-operated juvenile detention facility may be shorter than the length of stay for status offenders who are in DOC facilities. Status offenders assigned to the juvenile detention facilities remain under the jurisdiction of the juvenile court judge, who may change the length of stay. When a status offender is made a ward of the Department of Correction, the Commissioner of the Department of Correction decides when the juvenile will be released. Generally, since DOC juvenile facilities have more programs and facilities than the county juvenile detention facilities, it appears likely that the length of stay for a juvenile in a DOC facility will be longer. DOC reports that in FY 2003, the average length of stay for juvenile status offenders released in FY 2003 was 229 days, ranging from a low of 35 days to a high of 964 days.

Currently, no statistics report by type the number of juvenile status offenders who are being adjudicated, so it is not possible to determine how many repeat juvenile offenders would be placed in more restrictive placements and the potential costs.

The following table shows the number of status offenders who were either placed on probation for the years between CY 1997 and 2002 and the number of status offenders committed to the Department of Correction in FY 2002.

Status Offender Cases						
<u>Calendar Year</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Sent to probation	2,704	2,997	2,760	2,515	2,425	2,196
Committed to DOC	Currently Not Available					186

The following table shows the range in per diem costs by type of facility when considering placement options for repeat status offenders.

Type of Facility	Average Per Diem Costs	Range of Cost
Department of Correction*	\$76.50	\$61.50 to \$120.50
Juvenile Detention Facility	\$114.00	\$70 to \$160
Private Secure Facility	\$238.26	\$147 to \$352
Shelter Care Facility Child Caring	\$134.48	\$68 to \$280
Shelter Care Facility Group Home	\$125.65	\$48 to \$323

Type of Facility	Average Per Diem Costs	Range of Cost
*Note: This represents the county's share of the costs. Half of the per diem cost for DOC facilities is paid by the county from which the juvenile is committed, and half is paid by the state of Indiana.		

As background, the following shows the number of juveniles who have been committed to DOC in the past two fiscal years.

IN code	Most Serious Offenses	FY 2002	FY 2003
31-37-2-3	Violation of Compulsory School Attendance Law	128	83
31-37-2-2	Leaving Home w/o Permission of Parent, Guardian, or Custodian	37	36
31-37-2-4	Habitual Disobedience of Parent, Guardian, or Custodian	8	10
7.1-5-7-7	Illegal Possession of Alcohol	6	7
7.1-5-7-7	Illegal Consumption of Alcohol	5	5
31-37-2-5	Curfew Violation	2	1
<b>Total Juveniles Committed to DOC</b>		<b>186</b>	<b>142</b>

Note: Repealing the court's powers of sentence modification upon a child's truancy violation (Provision F) has no fiscal effect because these powers are transferred to another section of proposed language in the bill.

*Placement of Waived Juveniles:* If these juveniles are assigned to juvenile detention facilities, then the county might incur added costs if the county is responsible for the incarceration costs of these individuals. If these offenders are waived or excluded from juvenile court jurisdiction and are convicted and sentenced for a felony, then the Department of Correction would be responsible for their custody.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Courts with juvenile jurisdiction, juvenile detention facilities.

**Information Sources:** Department of Correction, Criminal Justice Institute, *2002 Indiana Probation Report*.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.